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(B) The amount and availability of liquid assets;

(C) Current and past cash flow; and

(D) Projected cash flow, including a projection of the impact on operations that would be caused by the immediate full payment of the liability.

(iii) The availability of credit from private sector sources to the person making the request and to other liable persons.

(2) A contributing sponsor or member of a contributing sponsor's controlled group may request deferred payment or other terms for the satisfaction of any portion of the liability under section 4062, 4063, or 4064 of ERISA at any time by filing a written request. The request must include the information specified in § 4062.6(b), except that—

(i) If the request is filed one year or more after the net worth record date, references to “the net worth record date” in § 4062.6(b) shall be replaced by “the most recent annual anniversary of the net worth record date”; and

(ii) Information that already has been submitted to the PBGC need not be submitted again.

(c) *Liability exceeding 30 percent of collective net worth.* If the PBGC determines that section 4062(b) liability exceeds 30 percent of the collective net worth of persons subject to the liability, the PBGC will, after making a reasonable effort to reach agreement with such persons, prescribe commercially reasonable terms for payment of so much of the liability as exceeds 30 percent of the collective net worth of such persons. The terms prescribed by the PBGC for payment of that portion of the liability (including interest) will provide for deferral of 50 percent of any amount otherwise payable for any year if a person subject to such liability demonstrates to the satisfaction of the PBGC that no person subject to such liability has any individual pre-tax profits (within the meaning of section 4062(d)(2) of ERISA) for such person's last full fiscal year ending during that year.

(d) *Interest.* Interest on unpaid liability is calculated in accordance with § 4062.7(a).

(e) *Security during period of deferred payment.* As a condition to the granting of deferred payment terms, PBGC may,

in its discretion, require that the liable person(s) provide PBGC with such security for its obligations as the PBGC deems adequate.

§ 4062.9 Filing of documents.

(a) *Date of filing.* Any document (including information) required or permitted to be filed under this part is considered filed on the date of the United States postmark stamped on the cover in which the document is mailed, provided that—

(1) The postmark was made by the United States Postal Service; and

(2) The document was mailed postage prepaid, properly packaged and addressed to the PBGC. If the conditions stated in both paragraphs (a)(1) and (a)(2) of this section are not met, the document is considered filed on the date it is received by the PBGC. Documents received after regular business hours are considered filed on the next regular business day.

(b) *Where to file.* Payments of liability shall be clearly designated as such and include the name of the plan. Such payments shall be sent to the address specified in the notification or demand for liability issued by the PBGC under § 4068.3 or, if not so specified, to the address provided, upon request, by the Investment Management Division, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026. Any document (including information) required or permitted to be filed under this part, except for documents relating to appeals, shall be submitted to the Insurance Operations Department, Pension Benefit Guaranty Corporation, at the above address. Any document submitted pursuant to part 4003 in connection with an appeal of an initial determination shall be submitted to the Appeals Board, Pension Benefit Guaranty Corporation, at the above address.

§ 4062.10 Computation of time.

In computing any period of time prescribed or allowed by this subpart, the day of the act, event, or default from which the designated period of time begins to run is not counted. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or Federal holiday, in which event the

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period runs until the end of the next day which is not a Saturday, Sunday, or a Federal holiday. For the purpose of computing interest accrued, a Saturday, Sunday or Federal holiday referred to in the previous sentence shall be included.

(Approved by the Office of Management and Budget under control number 1212-0017.)

PART 4063—WITHDRAWAL LIABILITY; PLANS UNDER MULTIPLE CONTROLLED GROUPS

AUTHORITY: 29 U.S.C. 1302(b)(3).

SOURCE: 61 FR 34082, July 1, 1996, unless otherwise noted.

§ 4063.1 Cross-references.

(a) Part 4062, subpart A, of this chapter sets forth rules for determination and payment of the liability incurred, under section 4062(b) of ERISA, upon termination of any single-employer plan and, to the extent appropriate, determination of the liability incurred with respect to multiple employer plans under sections 4063 and 4064 of ERISA.

(b) Part 4068 of this chapter includes rules regarding the PBGC's lien under

section 4068 of ERISA with respect to liability arising under section 4062, 4063, or 4064.

PART 4064—LIABILITY ON TERMINATION OF SINGLE-EMPLOYER PLANS UNDER MULTIPLE CONTROLLED GROUPS

AUTHORITY: 29 U.S.C. 1302(b)(3).

SOURCE: 61 FR 34082, July 1, 1996, unless otherwise noted.

§ 4064.1 Cross-references.

(a) Part 4062, subpart A, of this chapter sets forth rules for determination and payment of the liability incurred under section 4062(b) of ERISA, upon termination of any single-employer plan and, to the extent appropriate, determination of the liability incurred with respect to multiple employer plans under sections 4063 and 4064 of ERISA.

(b) Part 4068 of this chapter includes rules regarding the PBGC's lien under section 4068 of ERISA with respect to liability arising under section 4062, 4063, or 4064.